

REMARKS

After entry of the above claim amendments, claims 1-7 and 10-16 will be pending in this application. Prior to these amendments, the Office rejected claims 1-13 under 35 USC § 101 due to non-statutory subject matter. In addition, the Office rejected claims 1-4 and 7-9 under 35 USC § 103(a) as being unpatentable over Arthur Hughes' "Quick Profits with RFM Analysis" (hereinafter "Hughes") in view of George Orme's "Contact Strategy: Segmenting Your Targets" (hereinafter "Orme"). Claims 5, 6 and 10 are rejected under 35 USC § 103(a) as being unpatentable over Hughes in view of Orme and in further view of Powers et al. (U.S. Pat. No. 6,604,084; hereinafter Powers). Claims 11, 12 and 13 are rejected under 35 USC § 103(a) as being unpatentable over Hughes in view of Orme and in further view of the publication "Database Marketing Institute's RFM for Windows®" (hereinafter "RFM for Windows"). This is a non-final Office action and is responsive to Applicant's communication filed on or about April 30, 2007.

Amendments to the Claims

Applicant requests that the above claim amendments be entered into this application. No new subject matter is being entered. Support for the amendments is in the specification, e.g., page 8, line 16 – page 12, line 12).

Rejection of Claims 1 - 13 under 35 USC § 101

The Office has rejected the previously pending claims asserting that the invention must produce a useful, concrete and tangible result. Applicant disagrees. When the Appeal's Board entered the 101 rejection, their argument centered on the issue of whether the claims are directed to a practical application of an abstract idea. (See page 6, paragraph 1 of the Board's Decision mailed March 28, 2007.) In defining a practical application, the Board stated "either a transformation of physical subject matter to a different state or thing or the production of a useful, concrete, and tangible result equates to a practical application of an abstract idea" (Id.)

Applicant's claimed invention satisfies both requirements. After Applicant's claimed invention is applied to each customer record, the records are transformed to a *different state* both physically and logically. Each record is physically transformed to

contain additional information in form of discretized attributes that are assigned to each record. The records are also logically transformed into an order that identifies high value customers. Furthermore, the transformed records are useful, concrete and tangible. In a business setting, it is definitely useful to identify the high value customers for the business so that extra care can be taken to retain these customers. Because the acquisition cost for new customers is high, it is easy to justify spending some amount of money to retain customers and even more so with high value customers if they can be identified. The results are also concrete and tangible because the claimed invention specifically identifies the high value customers. The transformed records also make high value customers clearly discernible. Therefore, Applicant's claimed invention is a practical application of an abstract idea and the subject matter is statutory under 35 USC § 101.

Rejection of Claims 1 and 10-13 under 35 USC § 103

Hughes fails to show or suggest "assigning an evaluation score to each customer record based on the rank of each customer record after the fifth sorting and independent of the discretized attribute scores," as required by Applicant. Instead, (as cited by the Office on page 7 of the current Action) Hughes uses the recency, frequency and monetary (RFM) attributes to evaluate each customer. Assigning an evaluation score based on the RFM attributes is not the same as "assigning an evaluation score to each customer record based on the rank of each customer record after the fifth sorting and independent of the discretized attribute scores." This required element is also missing from the secondary prior art that has been cited. Since the prior art fails to show or suggest all the elements of Applicant's claimed invention, the rejection is improper and Applicant's claims are allowable.

Rejection of Dependent Claims

Dependent claims are allowable over the cited references for at least the same reasons as their corresponding independent claims.

CONCLUSION

Applicant asks the Office to reconsider this application and allow all claims. Please charge any fees that might be due, excluding the issue fee, or credit any overpayment to deposit account 50-4370.

Respectfully Submitted,

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